IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

EDWARD B. LYON, JR.   §

VS.   §   CIVIL ACTION NO. 5:09-CV-188

DIRECTOR, TDCJ-CID   §

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Edward B. Lyon, Jr., a prisoner confined at the Wynne Unit of the Texas

Department of Criminal Justice, Correctional Institutions Division, brought this petition for a writ

of quo warranto.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States

Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of

this court. The magistrate judge has submitted a Report and Recommendation of United States

Magistrate Judge. The magistrate judge recommends dismissing the petition.

The court has received and considered the Report and Recommendation of United States

Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed

objections to the magistrate judge's Report and Recommendation. Quo warranto actions are brought

by the state to protect itself and the good of the general public. *Superior Oil Co. v. City of Port

Arthur*, 726 F.2d 203, 205 n.1 (5th Cir. 1984). Because petitioner filed this action as an individual,

the magistrate judge correctly concluded that the petition should be dismissed.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 17th day of February, 2010.

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DAVID FOLSOM
UNITED STATES DISTRICT JUDGE